

CHAPTER 96
INFORMATION AND RECORDS

PREAMBLE

Title IV-D of the Social Security Act provides that state child support agencies providing services under the Act shall have access to information and records from third parties to assist in providing services. Information and records shall be provided as specified in these rules, other rules, Iowa statutes, and federal statute and regulations. These rules implement a procedure for the child support agency to request or administratively subpoena information from employers and other sources, and provide an appeal procedure before imposition of the statutory fine for failure to comply.

441—96.1(252B) Access to information and records from other sources. In addition to statutes and other rules, the following entities shall provide information and records based on the following methods of requesting the information and within the following time frame:

96.1(1) *Oral or written request.* All persons and entities, including all for-profit, nonprofit, and governmental employers, shall, within 15 days of receipt of a request, provide the child support recovery unit or a child support agency of another state information on the employment, compensation, and benefits of any individual employed by the person or entity as an employee or contractor if the unit or agency is providing services in relation to that individual. The request may be made orally, by letter, by form or by other written request listed in subrule 96.1(3); however, the fine and procedures described in rules 96.2(252B) to 96.6(252B) only apply if the request was by a written request listed in subrule 96.1(3).

96.1(2) *Subpoena.* All persons and entities shall comply with a Child Support Recovery Unit Subpoena, Form 470-3413, issued by the child support recovery unit, or an Interstate Subpoena, OMB Control # 0970-0152, or its successor, issued by a child support agency of another state, as provided in Iowa Code section 252B.9 as amended by 1997 Iowa Acts, House File 612, section 39. The child support recovery unit or a child support agency of another state may issue a subpoena regarding more than one individual. The person or entity shall provide the information and records as directed in Form 470-3413, or the Interstate Subpoena.

96.1(3) *Time to reply to a written request.* A person or entity who is sent any of the following shall provide the information and records requested in the manner requested to the child support recovery unit or child support agency of another state, as appropriate, within 15 days of the issuance of the request.

a. Form 470-3232, Employer Verification Request, Form 470-0177, Employment and Health Insurance Questionnaire, or other forms as specified in appropriate rules from the child support recovery unit which request information described at subrule 96.1(1).

b. Form 470-3413, Child Support Recovery Unit Subpoena, from the child support recovery unit.

c. A written request or form as provided at subrule 96.1(1) from a child support agency of another state.

d. An Interstate Subpoena, OMB Control # 0970-0152, or its successor, as provided at subrule 96.1(2) from a child support agency of another state.

441—96.2(252B) Refusal to comply.**96.2(1) *Refusal to comply with written request or subpoena—general.***

a. A person who is a parent or putative father in a support or paternity proceeding in which the child support recovery unit or a child support agency of another state is providing services who fails to comply with a request or subpoena as provided in subrule 96.1(3) shall be subject to license sanctioning as provided in 441—Chapter 98, Division VIII.

b. A person or entity who fails to comply with a request or subpoena as provided in subrule 96.1(3), and who is not a person as described under paragraph “a,” is subject to the provisions of subrule 96.2(2).

96.2(2) *Refusal to comply with written request or subpoena—person or entity not a parent or putative father.* A person or entity who is issued a written request listed in subrule 96.1(3) may refuse to comply as provided in rule 441— 96.3(252B).

441—96.3(252B) Procedure for refusal.

96.3(1) *No information.* A person or entity who does not have any information or records requested or subpoenaed shall respond as follows:

a. If the request or subpoena is a form from the child support recovery unit under paragraph 96.1(3) “a” or “b,” the person or entity shall sign and return to the unit the appropriate portion of the form indicating the lack of information or records.

b. If the request or subpoena is one listed in paragraphs 96.1(3) “c” or “d,” the person or entity shall send the child support agency of the other state a signed and dated written statement indicating the lack of information or records.

96.3(2) *Good cause.* The person or entity may claim good cause for refusing to comply as required in Iowa Code section 252B.9.

a. To claim good cause, the person or entity shall file a request for a conference by mailing or submitting a written request to the child support recovery unit which issued the request or subpoena within 15 days of the issuance of the request or subpoena.

b. If a child support agency of another state issued the request or subpoena, the person or entity may request a conference with the child support recovery unit or with the child support agency of the other state. The person or entity shall request a conference with the child support recovery unit by mailing or submitting a written request and a copy of the subpoena or document received from the child support agency of the other state to the Iowa Department of Human Services, Bureau of Collections, Central Registry, P.O. Box 9218, Des Moines, Iowa 50306-9218. The person or entity shall request a conference with the child support agency of the other state by following the requirements of that state’s laws and regulations.

441—96.4(252B) Conference conducted.

96.4(1) *Request or subpoena issued by CSRU.* If the child support recovery unit issued the request or subpoena, the unit shall notify the person or entity and conduct a conference within ten days of receipt of the request for a conference. At the request of either the unit or the person or entity, the conference may be rescheduled one time. The conference may be conducted in person or by telephone.

96.4(2) *Request or subpoena issued by other state.* If a conference with the child support recovery unit is requested based upon a request or subpoena issued by a child support agency of another state, the bureau chief, as defined at rule 441—95.1(252B), shall request that agency send an interstate referral and appropriate information to the unit or central registry.

a. The child support recovery unit shall notify the person or entity and conduct a conference within ten days of opening a case based upon an interstate referral and appropriate information. If the child support recovery unit does not receive an interstate referral and appropriate information within 60 days of the bureau chief's request, the request or subpoena received under subrule 96.1(3) shall be void, and the child support recovery unit shall notify the person or entity it is void.

b. The voiding of a request or subpoena under this subrule shall not prevent the issuance of subsequent requests or subpoenas.

96.4(3) *Submission of information.* On or before the conference date, the person or entity shall submit information to the child support recovery unit which demonstrates a mistake in the identity of the person or entity, or a mistake in the identity of the individual who is the subject of the request or subpoena, or which demonstrates a specific prohibition under federal law to release of the information or records. The child support recovery unit may extend the time to conduct the conference an additional ten days to allow time for the person or entity to provide the information.

96.4(4) *Notice of findings.* Following the conference, the unit shall issue a notice as provided in Iowa Code section 252B.9 as amended by 1997 Iowa Acts, House File 612, section 39.

441—96.5(252B) Fine assessed.

96.5(1) *Conditions resulting in fine.* The child support recovery unit shall assess a fine of \$100 per refusal and notify the person or entity of the fine if any one of the following applies:

a. Ten days have passed since the unit issued a notice under subrule 96.4(4) stating the unit determined there is no good cause to refuse to comply with the request or subpoena, and the information or records have not been received.

b. Fifteen days have passed since the child support recovery unit issued the request or subpoena and the information or records have not been received, nor has the person or entity filed a request for a conference.

c. Fifteen days have passed since a child support agency of another state has issued the request or subpoena, and that agency sends an interstate referral to the child support recovery unit requesting enforcement of the request or subpoena because the information or records were not received.

96.5(2) *Definition of refusal.* One refusal is a refusal to supply information or records based on one written request, or one subpoena regarding one or more individuals.

96.5(3) *Notification of fine.* If the child support recovery unit assesses a fine, it shall notify the person or entity by regular mail with proof of service completed according to Rule of Civil Procedure 82. The person or entity shall have 30 days to pay the fine.

441—96.6(252B) Objection to fine or failure to pay.

96.6(1) *Objection filed.* The person or entity may object to the imposition of the fine by filing an application for judicial review in district court within 30 days of issuance of the notice of the fine, and sending a copy of the application to the child support recovery unit.

96.6(2) *Petition to compel.* If the person or entity fails to pay the fine imposed, and does not file an application for judicial review within the time provided in this rule, the child support recovery unit may file a petition to compel the person or entity to comply with the request, subpoena or fine in district court in the county in which the underlying support order or pending matter is filed. If there is no support order or pending matter filed in district court in Iowa, then the unit may file the petition in the county in which the person resides, or the person or entity has its principal place of business.

96.6(3) *Certification to court.* If the person, entity, or the child support recovery unit files an action in district court, the unit shall certify a copy of the following, as appropriate, to the court prior to a hearing:

- a. Proof of service of the request or subpoena.
- b. Proof of service of the notice of assessment of a fine.
- c. Written decision following a conference.

96.6(4) *Failure to comply with court order.* Failure of the person or entity to comply with an order of the district court shall be subject to enforcement through contempt of court.

This rule is intended to implement Iowa Code section 252B.9 as amended by 1997 Iowa Acts, House File 612, section 39.

[Filed 2/19/76, Notice 1/12/76—published 3/8/76, effective 4/12/76]

[Filed emergency after Notice 11/21/80, Notice 10/1/80—published 12/10/80, effective 11/21/80]

[Filed 11/21/80, Notice 9/17/80—published 12/10/80, effective 1/14/81]

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]

[Filed 5/31/84, Notice 4/11/84—published 6/20/84, effective 8/1/84]

[Filed 8/31/84, Notice 7/18/84—published 9/26/84, effective 11/1/84]

[Filed emergency after Notice 5/29/85, Notice 4/10/85—published 6/19/85, effective 6/1/85]

[Filed 7/26/85, Notice 5/22/85—published 8/14/85, effective 10/1/85]

[Filed 5/28/86, Notice 3/26/86—published 6/18/86, effective 8/1/86]

[Filed 12/22/86, Notice 11/5/86—published 1/14/87, effective 3/1/87]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 8/4/88, Notice 6/29/88—published 8/24/88, effective 10/1/88]

[Filed 8/16/90, Notice 6/27/90—published 9/5/90, effective 11/1/90]

[Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 12/1/90]

[Filed emergency 8/8/91—published 9/4/91, effective 9/1/91]

[Filed without Notice 8/8/91—published 9/4/91, effective 11/1/91]

[Filed 10/10/91, Notice 9/4/91—published 10/30/91, effective 1/1/92]

[Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]

[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]

[Filed emergency 1/14/93—published 2/3/93, effective 3/1/93]

[Filed 3/11/93, Notice 2/3/93—published 3/31/93, effective 6/1/93]

[Filed 8/12/93, Notice 6/23/93—published 9/1/93, effective 11/1/93]

[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]